

321
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TO : MEMORANDUM FOR THE RECORD

DATE: 18 February 1953

FROM : Office of General Counsel

SUBJECT: Effect of the Thomas Rider upon Individuals Absent from the United States on June 30, 1953 on temporary assignment.

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1. [REDACTED] of the Personnel Division (Covert) has requested the opinion of this office on the question whether the Thomas Rider affects a departmental employee who is overseas on 30 June 1953 on a temporary duty assignment. For discussion memorandum assumes the hypothetical situation of an individual who departs from the United States on 30 January 1953 on temporary assignment overseas which will require his absence from the United States beyond 30 June. It is conceivable that such an individual will not have an opportunity to use all of his annual leave accumulated during 1952 before this date.

2. The Thomas Rider expressingly exempts from its coverage those who are permanently assigned overseas on 30 June 1953, but does not specifically treat the case of the individual here under discussion.

3. There are no published decisions of the Comptroller General on this question. I discussed the matter informally with Mr. Friend, an Assistant General Counsel of the General Accounting Office who advised me that one unpublished decision of the Comptroller General pretty clearly answered the question, holding that temporary absence from the United States on 30 June did not exempt the individual from the provisions of an earlier statute similar to the Thomas Rider. The case he mentioned arose on a claim of an employee of the Military Sea Transportation Service. In this case it was held that even though the individual was unable to avail himself of the privilege of annual leave for reasons entirely beyond his control, he nonetheless remained subject to the law which provided that leave accrued in one calendar year must be used before 30 June of the following year.

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OGC/GHK:cd (17 February 1953)

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